

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING ON
of ARM 17.30.502, 17.30.619,)	PROPOSED AMENDMENT
17.30.702, 17.30.715,)	
17.30.1001, 17.30.1006 and)	(WATER QUALITY)
17.30.1007 pertaining to)	
definitions, incorporation by)	
reference, criteria for)	
determining nonsignificant)	
changes in water quality,)	
standards for ground water and)	
sample collection,)	
preservation and analysis)	
methods)	

TO: All Concerned Persons

1. On November 19, 2002 at 10:30 a.m., the Board of Environmental Review will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., November 7, 2002, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email ber@state.mt.us.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.30.502 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, and ARM Title 17, chapter 30, subchapters 6 and 7, apply throughout this subchapter:

(1) through (13) remain the same.

(14) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters. Copies of Circular WQB-7 are available from the

Department of Environmental Quality, PO Box 200901, Helena, MT
59620-0901.

AUTH: 75-5-301, MCA

IMP: 75-5-301, MCA

17.30.619 INCORPORATIONS BY REFERENCE (1) The board hereby adopts and incorporates by reference the following state and federal requirements and procedures as part of Montana's surface water quality standards:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive and harmful parameters;

(b) through (2) remain the same.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

17.30.702 DEFINITIONS Unless the context clearly states otherwise, the following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter (Note: 75-5-103, MCA, includes definitions for "degradation", "existing uses", "high-quality waters", and "parameter."):

(1) through (23) remain the same.

(24) The board hereby adopts and incorporates by reference:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters; and

(b) and (c) remain the same.

AUTH: 75-5-301, 75-5-303, MCA

IMP: 75-5-303, MCA

17.30.715 CRITERIA FOR DETERMINING NONSIGNIFICANT CHANGES IN WATER QUALITY (1) through (3) remain the same.

(4) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters.

AUTH: 75-5-301, 75-5-303, MCA
IMP: 75-5-303, MCA

17.30.1001 DEFINITIONS For the purpose of this subchapter, the following definitions, in addition to those in 75-5-103, MCA, will apply:

(1) through (14) remain the same.

(15) "WQB-7" means department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, radioactive, bioconcentrating, nutrient, and harmful parameters.

(16) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters.

AUTH: 75-5-201, 75-5-401, MCA
IMP: 75-5-301, 75-5-401, MCA

17.30.1006 CLASSIFICATIONS, BENEFICIAL USES AND SPECIFIC STANDARDS FOR GROUNDWATERS (1) through (6) remain the same.

(7) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December ~~2001~~ 2002 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters.

AUTH: 75-5-301, 80-15-105, 80-15-201, MCA
IMP: 75-5-301, 80-15-201, MCA

17.30.1007 SAMPLE COLLECTION, PRESERVATION, AND ANALYSIS METHODS (1) through (2) remain the same.

(3) The board hereby adopts and incorporates by reference the following publications:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards", December ~~2001~~ 2002 edition;

(b) through (4) remain the same.

AUTH: 75-5-301, MCA
IMP: 75-5-301, MCA

REASON: The Board is proposing the amendment of ARM 17.30.502, 17.30.619, 17.30.702, 17.30.715, 17.30.1001, 17.30.1006 and 17.30.1007 to update the incorporations by reference of the Department of Environmental Quality (Department) Circular WQB-7 (WQB-7), which contains Montana's numeric water quality standards. The Board is proposing to amend WQB-7 to add numeric standards criteria for Bromoxynil for the following reasons:

Bromoxynil is an agricultural chemical that has been detected in state waters by the Montana Department of Agriculture. Pursuant to 80-15-201(3) and 80-15-203(2)(a), MCA, the Board is required to adopt a standard for ground water when there is no published standard for an agricultural chemical that has been detected in Montana's ground water. The Department, in conjunction with EPA, has developed a standard for Bromoxynil. Adoption of the standard for Bromoxynil is necessary to comply with Title 80, chapter 15, part 2, MCA, and to protect state waters from pollution resulting from application of the chemical.

The Board is proposing to adopt the standard for Bromoxynil for both surface and ground water. The Board could choose to adopt only a ground water standard and meet the requirements of state law, but believes that approach is inconsistent with the policy of the state to "protect and maintain" all state waters, both surface and ground water. It is necessary to adopt a standard for surface waters as well as ground water, so that Montana's surface waters will receive the same protection as ground water.

4. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Board of Environmental Review, P.O. Box 200901, Helena, Montana 59620-0901, faxed to (406) 444-4386 or emailed to the Board Secretary at ber@state.mt.us and must be received no later than 5:00 p.m., November 27, 2002. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid

waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, emailed to the Board Secretary at ber@state.mt.us or may be made by completing a request form at any rules hearing held by the Board.

6. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

James M. Madden

By: Joseph W. Russell

JAMES M. MADDEN
Rule Reviewer

JOSEPH W. RUSSELL, M.P.H.
Chairman

Certified to the Secretary of State, October 7, 2002.